

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/643,526	WILK ET AL.
	Examiner Vishu K. Mendiratta	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amdt dated 3/27/06 and interview dated 4/14/06.
2.  The allowed claim(s) is/are 4,8,14,20,21,25,26.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Scott E. Baxendale on 4/14/06.

The application has been amended as follows:

**Claims 7,9-13,15-17,23,24,27-44 are cancelled.**

2. The following is an examiner's statement of reasons for allowance:

(a) None of the cited prior art references either alone or in combination disclose a game action figure with a base and having a mechanically functional combat component moveable with respect to the base of the figure, and engage other action figures in simulated battle, a distance measuring device disposed within the base of the figure and contacting the surface when the figure is disposed on a surface, the distance measuring device further actuated by the movement of the game figure, the distance measuring device further having a visual indication component moving in response to the actuation of the distance measuring device to visually perceptible indication of movement in increments of distance on the surface, and further the distance measuring device having an audible indication component generating audibly perceptible output in

response to the actuation of the distance measuring device to indicate movement in increments of distance over the surface and all other limitations of claim 4.

(b) None of the cited prior art references either alone or in combination disclose a game action figure with a base and having a mechanically functional combat component moveable with respect to the base of the figure, and engage other action figures in simulated battle, a distance measuring device disposed within the base of the figure providing an indication of the distance moved and contacting the surface when the figure is disposed on a surface, wherein the game figure character having a first portion connected to the base and a second portion of the game figure character connected to the first portion, the second portion moving between a first position to a second position, a spring engaging the first portion and the second portion and biasing the second portion and the second portion engaging adjacent game pieces and all other limitations of claim 8.

(c) None of the cited prior art references either alone or in combination disclose a game action figure with a base and having a mechanically functional combat component moveable with respect to the base of the figure, and engage other action figures in simulated battle, a distance measuring device disposed within the base of the figure providing a visual indication of the distance moved and contacting the surface when the figure is disposed on a surface, the distance measuring device further having an axle, a wheel secured to the axle and providing rotary movement to axle when wheel moves on a surface, a device coupled to axle indicating progressive rotation of axle, a pinion gear fixedly secured to axle and having a plurality of teeth, a circular rack engaging pinion

and having circumferentially placed indicia, and a face plate adjacent to sequentially display indicia as the rack rotates and all other limitations in claim 14.

(d) None of the cited prior art references either alone or in combination disclose a game action figure with a base and having a mechanically functional combat component moveable with respect to the base of the figure, and engage other action figures in simulated battle, a distance measuring device disposed within the base of the figure providing a visual indication of the distance moved and contacting the surface when the figure is disposed on a surface, the distance measuring device further having an axle, a wheel secured to the axle and providing rotary movement to axle when wheel moves on a surface, a device coupled to axle indicating progressive rotation of axle, a pinion gear fixedly secured to axle and having a plurality of teeth, wherein the audible indicator is a clicker with one end secured to base portion and a second end engaging the pinion gear, further having a weapon for attacking and engaging in simulated battle with another game piece wherein the weapon is actuated by direct engagement of the weapon by the user of the action game figure and not actuated by movement of the game piece or the distance measuring device, further having all other limitations of claim 20.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKM  
April 14, 2006

VISHU MENDIRATTA  
PRIMARY EXAMINER